

**IN THE UNITED STATES
PATENT AND TRADEMARK OFFICE**

APPLICANTS: Tuschl et al.
APPLICATION NO.: 09/821,832
FILING DATE: March 30, 2001
TITLE: RNA Sequence-Specific Mediators of RNA Interference
EXAMINER: L. V. Wollenberger
GROUP ART UNIT: 1635
ATTY. DKT. NO.: 26421-01001
CONFIRMATION NO.: 6240

MAIL STOP PETITIONS
COMMISSIONER FOR PATENTS
WASHINGTON, D.C. 22313-1450

PETITION TO REVOKE POWER OF ATTORNEY UNDER 37 C.F.R. §1.36(a)

Sir:

Petitioner has an assigned partial interest in the above-referenced patent application directed to RNAi, as well as various continuations and divisionals of the above application. Petitioner granted a Power of Attorney to counsel chosen by one of the co-assignees of the application to represent its interests and serve as its attorney in connection with this application.

However, that counsel, Wolf Greenfield & Sacks, P.C., has acted contrary to Petitioner's interests and instructions in connection with the prosecution of this application, in favor of the interests and instructions of other co-assignees of the application. As a result, Petitioner has brought suit against counsel to have counsel removed on account of the conflict of interests among the co-assignees of the application, and that action is currently pending. Petitioner has also filed suit against the co-assignees, and that action is also currently pending. Copies of the complaints in these two suits, as well as related documents, were submitted in the instant application in an Information Disclosure Statement filed on July 10, 2009.

PATENT

On July 14, 2009, two shareholders of counsel executed declarations filed in support of an opposition to a preliminary injunction requested by Petitioner in the lawsuit against the co-assignees. (Declaration of Helen Lockhart (Exhibit A), and Declaration of Patricia Granahan (Exhibit B.)) Both of those declarations include statements and opinions that are contrary to the interests of Petitioner. 37 CFR 10.63 dictates that counsel shall withdraw when counsel will be a witness. 37 CFR 10.66 also dictates that counsel shall not continue multiple employment if the clients' interests diverge, unless consent has been obtained after full disclosure of the possible effect of such multiple representation. Such a full disclosure has never been made, and to date, counsel has refused Petitioner's requests to withdraw, even in the face of the lawsuit against counsel and the conflicting instructions and interests of the co-assignees of the application.

An owner of less than the entire interest in a patent application does not have the sole right to control the prosecution of the application. *In re Goldstein*, 16 USPQ2d 1963 (Dep. Ass't. Com'r. for Patents 1988). Accordingly, each partial assignee has the right to choose an attorney to represent its interests in the application. *Id.* As explained above and in the complaints and related papers filed with the Information Disclosure Statement on July 10, 2009, current counsel is not representing the interests of the Petitioner, and is in fact acting adverse to Petitioner.

Petitioner requests that the Patent and Trademark Office revoke the current Power of Attorney from Petitioner, and authorize new counsel to represent Petitioner's interests. A Revocation of Powers of Attorney and Appointment of New Attorneys, and a Statement Under 37 CFR 3.73(b), are being submitted concurrently to take effect upon grant of the instant Petition.

Please charge the petition fee set forth in 37 C.F.R. §1.17(f), and any and all fees associated with the Petition to Revoke Power of Attorney, to Deposit Account No.02-2135.

Respectfully submitted,

Dated: July 20, 2009

By: /Monica Chin Kitts/
Monica Chin Kitts
Reg. No.: 36,105
Attorney for Petitioner
ROTHWELL, FIGG, ERNST & MANBECK
1425 K Street, Suite 800
Washington D.C. 20005
Tel.: (202) 783-6040
Fax.: (202) 783-6031

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/821,832
Applicant : Thomas TUSCHL, et al.
Filed : March 30, 2001
TC/A.U. : 1635
Examiner : Louis V. Wollenberger

Docket No. : 2923-537
Customer No. : 06449
Confirmation No. : 6240

Title : RNA Sequence-Specific Mediators of RNA Interference

REVOCATION OF POWERS OF ATTORNEY
AND APPOINTMENT OF NEW ATTORNEYS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Max-Planck-Gesellschaft Zur Forderung Der Wissenschaften E.V., a Corporation duly organized under the laws of the Country of the Federal Republic of Germany, is an assignee of the entire right, title and interest in the above-identified application, along with, **Whitehead Institute for Biomedical Research**, a Corporation duly organized under the laws of the State of Delaware, **University of Massachusetts Medical Center**, a Corporation duly organized under the laws of the Commonwealth of Massachusetts, and **Massachusetts Institute of Technology**, a Corporation duly organized under the laws of the Commonwealth of Massachusetts. **Max-Planck-Gesellschaft Zur Forderung Der Wissenschaften E.V.** hereby appoints the below attorneys:

Robert B. Murray Reg. No. 22,980
Nancy Linck Reg. No. 31,920
Monica Kitts Reg. No. 36,105
Rothwell, Figg, Ernst & Manbeck, P.C.
1425 K Street, N.W.
Suite 800
Washington, D.C. 20005
Tel: 202-783-6040
Fax: 202-783-6031
info@rfem.com

to prosecute the above-identified application and any divisions or continuations thereof and to conduct all business in the United States Patent and Trademark Office. All previously granted Powers of Attorney are hereby revoked.

A statement under 37 C.F.R. §3.73(b) is submitted herewith.

Respectfully submitted,

**Planck-Gesellschaft Zur Forderung
Der Wissenschaften E.V.**

Name: Dr. Joern Erselius
Signature: [Signature]
Title: Patent Representative
Date: July 20, 2009

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STATEMENT UNDER 37 C.F.R. § 3.73(b)

Max-Planck-Gesellschaft zur Forderung der Wissenschaften E.V., a corporation, states that it is:

- A. ☐ the assignee of the entire right, title and interest in the parent application identified above;
OR
B. ☒ the assignee, together with, Whitehead Institute for Biomedical Research, Massachusetts Institute of Technology, and University of Massachusetts Medical Center, of the entire right, title and interest in the patent application identified above.

The right, title and interest of the above-named assignee in the patent application identified above is established by virtue of:

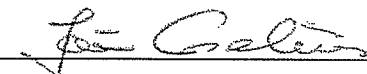
- A. ☒ An Assignment from Thomas Tuschl, co-inventor(s) of the patent application identified above. The assignment from Thomas Tuschl to Whitehead Institute for Biomedical Research and Planck-Gesellschaft Zur Forderung Der Wissenschaften E.V. was recorded in the Patent and Trademark Office at Reel 012089, Frames 0934-0937.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: _____ To: _____ The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
 2. From: _____ To: _____ The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
 3. From: _____ To: _____ The document was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.
- ☐ Additional documents in the chain of title are listed on a supplemental sheet.

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee:

Signature: 
Name: Dr. Joern Erselius
Title: Patent Representative
Date: July 20, 2009